

805 KAR 5:030. Prohibition against working or traveling under an unsupported roof; penalties.

RELATES TO: KRS 351.020, 352.201, EO 2009-538

STATUTORY AUTHORITY: KRS 351.070(13)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 351.070(13) authorizes the Environmental and Public Protection Cabinet to promulgate administrative regulations necessary and suitable for the proper administration of KRS Chapter 351. 352.201 requires each underground mine to have an approved roof control plan and directs that a person shall not proceed beyond temporary or permanent roof support. EO 2009-538, effective June 12, 2009, abolishes the Environmental and Public Protection Cabinet and establishes the new Energy and Environment Cabinet. This administrative regulation establishes procedures for the department's response in circumstances in which a person works or travels under an unsupported roof.

Section 1. Definitions. (1) "Mine foreman" is defined by KRS 351.010(1)(r).

(2) "Unsupported roof" means the roof in a portion of an underground coal mine in which a temporary or permanent roof support system has not been installed:

- (a) Including all areas of an underground coal mine, such as breaks, fall areas, and pillar lines; and
- (b) Excluding a roof which has adequate natural support either initially or following the installation of artificial roof support.

Section 2. (1)(a) A person shall not work or travel under an unsupported roof in an underground coal mine.

(b) Mining-related activities, including equipment installation and maintenance, clean-up or activities preparatory to the installation of temporary or permanent roof support shall not be performed under an unsupported roof, and justification for performing these acts shall not be accepted by the department.

(2)(a) A person working in an underground coal mine shall be instructed by management of the mine of the hazards of proceeding beyond temporary or permanent roof support.

(b) A person who proceeds beyond temporary or permanent roof support shall be personally liable for violation of proceeding beyond temporary or permanent roof support.

(c) A mine foreman or section foreman shall exercise primary and ultimate responsibility to ensure that a person shall not work or travel under an unsupported roof.

(3)(a) If an inspector for the department does not observe a person working or traveling under an unsupported roof, the inspector shall determine if the area below an unsupported roof appears to have been used or otherwise occupied by mining personnel.

(b) Use or occupancy shall be deemed to have occurred if there is physical evidence indicating to the inspector that a person has worked or traveled under an unsupported roof.

Section 3. (1) If an inspector of the department observes or determines that mine personnel have proceeded under an unsupported roof, the inspector shall document the observation in a report to the district supervisor. That report shall include:

- (a) The name and location of the mine at which the violation is alleged to have occurred;
- (b) The time and date of the violation, if known;
- (c) The person observed or believed to have worked or traveled under an unsupported roof;
- (d) The basis for that belief if conduct was not actually observed;
- (e) The name of the mine foreman or section foreman under whose responsibility the person was working when the conduct occurred; and

(f) The name of the instructor who administered the most recent training to the person alleged to have proceeded under an unsupported roof, the date of that training, and the location at which the training was administered.

(2) The report shall be tendered to the district supervisor within two (2) working days of the date upon which the inspector observes or becomes aware of the violation alleged.

(3) Upon receipt of the report from the inspector, the district supervisor shall forward to the Executive Director of the Office of Mine Safety and Licensing, a copy of the report and a letter describing the severity of the violation and naming personnel who are responsible for the violation. (19 Ky.R. 845; 1084; eff. 11-9-1992; 36 Ky.R. 656; 1062; 1220; eff. 12-11-2009; Crt eff. 6-27-2018.)